



**Rule and Interpretive/Policy Statement Review Checklist**  
(This form must be filled out electronically.)

This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Document(s) Reviewed (include title):

**WAC 458-16-260: Nonprofit day care centers, libraries, orphanages, homes for sick or infirm, hospitals, outpatient dialysis facilities**

Date last adopted/issued: **12/29/01**

Reviewer: **Kim M. Qually**

Date review completed: **11/5/02**

Briefly explain the subject matter of the document(s):

**WAC 458-16-260 describes the property tax exemption authorized by RCW 84.36.040 to property used by day care centers, libraries, orphanages, homes for sick or infirm, hospitals, and outpatient dialysis facilities and to property leased to and used by a hospital that is owned and operated by a public hospital district for hospital purposes.**

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

**2. Need:**

YES	NO	
<b>X</b>		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	<b>X</b>	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	<b>X</b>	Have the laws changed so that the document should be revised or repealed?
<b>X</b>		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens?



Please explain.

**RCW 84.36.040 provides a the property tax exemption for real and personal property used exclusively by a nonprofit organization, association, or corporation for the following institutions: day care centers; preschools; free public libraries; orphanages and orphan asylums; homes for the sick or infirm; hospitals for the sick; and outpatient dialysis facilities. In 2001, this statute was amended to provide an exemption for real and personal property leased to and used by a public hospital district for hospital purposes.**

**WAC 458-16-260 describes the conditions and requirements under which such organizations are eligible to receive an exemption. It also explains how loaned or rented property may obtain and retain an exemption, the requirement that the property be put to an exclusive use to further the exempt purpose of the nonprofit organization, and that the property be actually used and irrevocably dedicated to the exempt purpose of the nonprofit organization. The rule was revised in 11/01, effective 12/01, to incorporate the 2001 statutory change.**

**3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:**

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

**(a)**

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed?
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

**(b)**

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?



**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate?
X		Is the document providing the result(s) that it was originally designed to achieve?
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

**WAC 458-16-260 was amended in 2001. It is written in a clear and concise manner in the format now favored by DOR. Because the rule was recently amended, the style and content of the rule were carefully reviewed in 2001.**

**The rule as written achieves its intent and purpose. DOR isn't aware of any problems created by the rule since its recent revision.**

**5. Intent and Statutory Authority:**

YES	NO	
X		Does the Department have sufficient authority <b>to adopt</b> this document?
X		Is the document consistent with the legislative intent of the statute(s) that authorize it?
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

**RCW 84.36.865 grants DOR the authority to adopt rules and regulations as may be necessary of desirable to permit the effective administration of the chapter 84.36 RCW relating to property tax exemptions.**

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

**Property tax exemptions are administered by the Property Tax Division of DOR. Local governments and other state agencies, as appropriate, are consulted during**



**the rule-making process so the chance of adopting duplicative and/or inconsistent rules is minimal.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	<b>X</b>	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer "yes" only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

**This is an interpretative rule that imposes no additional administrative burdens on taxpayers not already imposed by the statutes in chapter 84.36 RCW.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
<b>X</b>		Does the document result in equitable treatment of those required to comply with it?
	<b>X</b>	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	<b>X</b>	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

**This rule applies uniformly to all nonprofit organizations, associations, or corporations that receive or seek a property tax exemption under RCW 84.36.040 and to a public hospital district that is leasing or using real or personal property for hospital purposes. Since the rule was revised in 2001, no problems related to it have been brought to DOR's attention.**

## **9. LISTING OF DOCUMENTS REVIEWED:**

Statute(s) Implemented:

**RCW 84.36.040: Nonprofit day care centers, libraries, orphanages, homes or hospitals for the sick or infirm, outpatient dialysis facilities**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **none**

Court Decisions: **none**



Board of Tax Appeals Decisions (BTAs):

**Multi-faith Aids Project of Seattle [MAPS] v. DOR**, BTA Docket No. 47714 (1996) - whether residential property leased by MAPS and used as a home for persons with AIDS qualifies for property tax exemption under RCW 84.36.040(1)(d) as a home for the sick or infirm. The Magnolia Home is leased from the owners under terms and conditions that require MAPS to pay the property taxes. The lease does not contain language irrevocably dedicating the subject real property to use as a home for persons with AIDS.

**Yakima Valley Memorial Hospital d.b.a. Yakima Valley Home Health and Hospice v. DOR**, BTA Docket No. 49902 (1998) - the issue is the tax-exempt status of real property that is leased to Valley Memorial and serves as the administrative offices of the Home Health program.

**Day Star Christian Academy v. DOR**, BTA Docket Nos. 53597-53598 (1999) - whether DSCA qualifies for real property tax exemption. DSCA argued it was exempt as a nonprofit day care center under WAC 458-16-165(4)(b). The BTA found that this rule does not apply to DSCA because WAC 458-16-165(3) requires that “the exempt property shall be exclusively used for the actual operation of the activity for which the nonprofit organization, association, or corporation applied and received the property tax exemption.” DSCA does not exclusively use the property for a day care center, and therefore does not qualify for an exemption as such.

Appeal Division Decisions (WTDs):     **none**

Attorney General Opinions (AGOs):     **none**

Other Documents:             **none**

**10. Review Recommendation:**

- \_\_\_\_\_ **Amend**
- \_\_\_\_\_ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- X**   **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- \_\_\_\_\_ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)



**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

**The rule was only revised at the end of last year. There have been no further statutory changes or any other decision that would call for the rule to be amended at this time.**

**11. Manager action:** Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed and accepted recommendation

Amendment priority:

\_\_\_\_\_ 1  
\_\_\_\_\_ 2  
\_\_\_\_\_ 3  
\_\_\_\_\_ 4